

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

WT Docket No. 01-309

RM-8658

Section 68.4(a) of the Commission's Rules)

Governing Hearing Aid-Compatible Telephones)

**COMMENTS OF
TELECOMMUNICATIONS FOR THE DEAF, INC.
ON THE NOTICE OF PROPOSED RULE MAKING**

Telecommunications for the Deaf, Inc. ("TDI") submits its comments in the above-captioned rulemaking proceeding (the "NPRM").¹

TDI is a national advocacy organization actively engaged in representing the interests of the twenty-eight million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. TDI's mission is to promote equal access to broadband, media and telecommunications for the aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. Only through equal access will the twenty-eight million Americans who are deaf, hard of hearing, late deafened, and deaf-blind be able to enjoy the opportunities and benefits of the telecommunications revolution to which they are entitled. Furthermore, only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

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¹ FCC 01-320, released November 14, 2001.

I. THE FCC SHOULD REVOKE THE EXEMPTION

TDI applauds the FCC's efforts to re-examine whether exemption from the Hearing Aid Compatibility Act of 1988 ("HAC") is still warranted. For the reasons articulated below, TDI encourages the Commission to revoke the exemption. As the Commission recognizes in the NPRM, people who use hearing aids or have cochlear implants have difficulty finding a digital wireless mobile telephone that functions effectively, due to interference and compatibility problems.²

TDI encourages the Commission to require that all public mobile service telephones be compatible with hearing aids and mobile TTY devices. Although the introduction of digital wireless service to the market for mobile telephone service has increased the number of options available to most consumers significantly, deaf and hard of hearing consumers have been left out of the digital mobile telephone services market. These comments emphasize that most deaf and hard of hearing Americans continue to be denied access to this market because they cannot use digital wireless service. Deaf and hard of hearing consumers are anxious to obtain digital wireless service and take advantage of the improved services and lower costs related to digital wireless technology. These consumers are kept out of the digital wireless market due to the above-mentioned interference and compatibility issues, the current exemption and the fact that mobile TTY devices currently cannot be used with digital wireless phones.

These service inadequacies to deaf and hard of hearing consumers in the digital wireless market force them to rely solely on analog cellular phones. Analog cellular telephones do not interfere with hearing aids. Some analog cellular telephones are hearing aid compatible. Those accessibility benefits cannot be found in digital wireless technology.

² NPRM at ¶ 2.

TDI is concerned that digital service has become the predominant wireless technology and that analog service will not be widely available. When licensing of digital wireless services began in 1995, it was commonly known that digital wireless handsets caused interference with hearing aids and cochlear implants, and the wireless industry did not produce handsets that would comply with the compatibility requirements in the HAC and FCC regulations. However, at that time, consumers and the Commission were sympathetic with the industry's claim that required adherence to the HAC standard would result in significant delays in the introduction of digital wireless service. The Commission, despite its knowledge that deaf and hard of hearing consumers would be denied access to digital services, granted an exemption. The industry did pledge to take substantial, voluntary efforts towards ensuring that deaf and hard of hearing consumers eventually would have access to digital wireless service. That pledge has not produced the results anticipated.

Deaf and hard of hearing consumers continue to be denied access to digital wireless telephone service. At the present time, digital wireless phones remain largely inaccessible to people who rely on hearing aids, cochlear implants or TTY service. Voluntary efforts to provide solutions to this distressing situation have mostly been advanced by the modifications in hearing aid design undertaken by manufacturers of this technology. Consumers who are deaf or hard of hearing have not been well served by voluntary efforts. Nor can they rely on the market to protect their access to mobile telephone service. Despite the obvious market of six million potential consumers who rely on hearing technology, the industry has consistently dragged its feet in providing the equipment and needed services. Progress is being made with regard to TTY compatibility, but only because the FCC made compatibility an absolute requirement.

For some hearing aid and cochlear implant users there are a limited number of digital wireless handsets that may work. In addition, there are accessories that may help hearing aid users

who have telecoils. These users may purchase accessories like neckloops that allow individuals who use hearing aids with telecoils access to two or three handset models. We note that many consumers find this accessory inconvenient, expensive, and impractical.

The exemption should be revoked. Deaf and hard of hearing consumers fervently wish to participate in the market that includes digital wireless services, and agrees with the Commission that the wireless industry has not adequately “established technical standards for hearing aid compatibility” as required by the HAC statute.³

TDI strongly supports the Commission’s action that would permit the ability of deaf and hard of hearing consumers to gain and maintain access to digital public mobile telecommunications, and agrees with the Commission’s tentative conclusion that the industry should be required to establish technical standards for compatibility between covered wireless devices and hearing aids.⁴

TDI also agrees with the Commission that the wireless industry should be responsible for providing internal means for making the covered telephones compatible with hearing aids.⁵ Consumers needing compatibility should be able to use wireless devices without cumbersome external components, or components that are not required by the general population of wireless users.

II. REVOKING THE EXEMPTION IS IN THE PUBLIC INTEREST

Current digital wireless service generally is not compatible with many hearing aid devices. As analog service becomes increasingly transitional to digital service, analog alternatives are not as widely available. TDI agrees that analog services are not a satisfactory alternative because they are difficult to find, suffer from occasional static and disconnection, are not as secure as digital

³ NPRM at ¶ 16, citing 47 U.S.C. § 610(b)(2)(c).

⁴ *Id.*

⁵ NPRM at ¶ 17.

services, do not offer nearly as many features, do not conserve battery life as well as digital, and are more expensive. In addition, they are on networks that are not as well maintained and cannot accommodate rapid subscriber growth.⁶ TDI supports the FCC's tentative conclusion that lifting the exemptions to require devices used with public mobile service to be hearing aid compatible would serve the public interest.⁷

III. CONTINUING THE EXEMPTION WOULD ADVERSELY AFFECT PEOPLE WITH HEARING DISABILITIES

TDI's constituency, the twenty eight million Americans who are deaf, hard of hearing, late-deafened and deaf-blind, will be adversely affected if the Commission does not revoke the exemption. As TDI has commented previously, and the Commission acknowledges, digital wireless telephones offer many features that would benefit deaf and hard of hearing individuals, including messaging services, e-mail and Internet access.⁸ As noted above, analog service is becoming less available over time, and external devices are not a viable option for the majority of consumers with hearing disabilities. TDI agrees with the Commission's tentative conclusion that continuing the exemption would adversely affect individuals with hearing disabilities.

In addition, revoking the exemption would benefit individuals with hearing disabilities by providing a wider range of communications options at more favorable pricing. As the Commission recognizes, making digital telecommunications more available will benefit the American public by allowing fuller participation in employment and social opportunities.

⁶ NPRM at ¶ 20.

⁷ NPRM at 21.

⁸ NPRM at ¶ 22, citing TDI Comments.

IV. COMPLIANCE IS TECHNICALLY FEASIBLE, COST EFFECTIVE AND SHOULD BE IMPLEMENTED EXPEDITIOUSLY

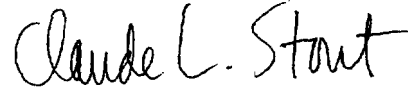
TDI is aware that some major manufacturers, including Samsung and Motorola already have marketed models of digital wireless telephones that are compatible or cause very little interference to hearing aids. TDI has been informed that interference from the battery of a wireless telephone can be decreased by including a thin layer of material between the battery and the user. Manufacturers and carriers need to be given a deadline to become compliant, because they already have received a six year time period to work on compliance, and apparently need a legal incentive to accelerate their voluntary compliance efforts.

TDI and other advocates for people with hearing disabilities have been patient in this matter, and are willing to discuss reasonable alternatives, such as a two year phased-in schedule for compliance. The industry has had 13 years to comply. They currently are not serving a significant market segment. Some in the industry may find that making compatible phones available could be a marketing and sales advantage, and the funds expended to upgrade equipment can be recouped by having increased demand for their products.

TDI agrees that compliance activities should be implemented by requiring quarterly reports that include information about testing activities, and proposed in-service dates for compliant projects. TDI also believes that vigorous enforcement is necessary. Because many states do not regulate wireless services, the FCC probably will have the predominant enforcement role in this process. TDI encourages the Commission to make sure that its current procedures are sufficiently expeditious to properly enforce compliance with these rules.

In summary, TDI strongly urges the Commission to revoke the current exemption. Such revocation is in the public interest, will benefit the public generally, and specifically improve the communications capabilities of Americans with hearing disabilities.

Respectfully Submitted,

A handwritten signature in black ink that reads "Claude L. Stout". The signature is written in a cursive, flowing style.

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